IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 438 of 2006

DATE OF DECISION : 28.10.2006

State of Punjab

.... PETITIONER

Versus

Balaka Singh and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. N.S. Gill, AAG, Punjab.

Mr. V.K. Chaudhari, Advocate,
for respondent No.4.

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The State of Punjab has filed this criminal revision against the order dated 5.10.2005, passed by Addl. Sessions Judge (Adhoc), Amritsar, whereby two accused, namely Balaka Singh and Surinder Kumar, in case FIR No. 47 dated 11.4.2005 under Sections 302, 364, 201, 120-B, 34 IPC, registered at Police Station B Division, Amritsar, have been discharged, while holding that no prima facie evidence against them was found during the investigation.

2. I have heard counsel for the parties and perused the impugned order.

3. In this case, on the statement of Rajwant Kaur widow of Harbans Singh (deceased), the aforesaid FIR was registered, as she had shown suspicion against five persons for committing murder, who were joint in business with her husband. During the investigation, no incriminating evidence came against Balaka Singh and Surinder Kumar and as per prosecution version, deceased was taken alone from his house by Harjinder Singh, Ranjit Singh and Jasbir Singh and then he was murdered. The aforesaid two accused have been discharged vide the impugned order and the challan was filed against Harjinder Singh and Ranjit Singh. This revision petition has been filed by the State of Punjab alleging therein that there is evidence of Shamsher Singh son of the deceased, who is an eye

witness of the occurrence. According to him, accused Jasbir Singh, Ranjit Singh and Harjinder Singh had committed murder of his father and they also extended threats to him that they will finish his whole family, in case he discloses anything to any body, as accused Balaka Singh and Surinder Kumar were keeping eye on his house. It was further stated that these five accused also threatened his mother Rajwant Kaur for not pursuing the case. On the basis of the said material, the instant revision petition has been filed for setting aside the impugned order.

4. During the course of arguments, I have been informed that trial against two accused, namely Harjinder singh and Ranjit Singh has concluded and they have been acquitted vide judgment dated 15.9.2006, passed by Additional Sessions Judge (Adhoc), Amritsar, on various grounds, including the delay in lodging the FIR. A copy of the judgment has also been filed in Court today, which is taken on record. It has been held by the trial court that the present case was registered after about 2 years and 11 months of the date on which the complainant came to know that her husband has been killed. It has been further held that the prosecution has failed to lead the reliable evidence against the accused.

5. As per the prosecution version, Harjinder Singh and Ranjit Singh were the main accused, who have been acquitted and the only evidence against Balaka Singh and Surinder Kumar, as stated by PW.4 Shamsher Singh is that the main accused threatened him that Balaka Singh and Surinder Kumar were keeping watching him and in case, he disclose to any body, then he will be killed. Even the statement of PW.4 Shamsher Singh has been held to be not reliable by the trial court.

6. In view of the aforesaid facts, I do not find any ground to interfere with the impugned order.

7. Dismissed.

October 28, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**